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ABSTRACT

To date, only two states (Minnesota and California) have passed charter-school legislation. This report presents details from these two states regarding charter-school formation, including roles played by teachers and organizers, by local school boards as sponsors, and by county or state officials in providing an appeals process and technical assistance. Statutory requirements, legal responsibilities, funding mechanisms, and employment issues (hiring and dismissal, collective bargaining, and job security) are also detailed. The report offers recommendations to policymakers considering potential charter-school legislation and analyzes the following questions: Who should sponsor? Which state laws/rules should remain?; What about the mechanics of funding? Who should govern? How can resistance be overcome? What about private school inclusion? Do charter schools conflict with consolidation efforts? What role should the sate play? and Will charter schools cost more? A conclusion is that charter schools appear to be a viable reform initiative, especially for states considering school choice, decentralization, and/or more innovative accountability systems. Findings suggest that benefits outweigh the impending policy battles. Appendices contain a comparison of Minnesota and California charter-school laws and copies of Minnesota's outcome-based school legislation (1991) and California's charter-school legislation (1992). (LMI)

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CHARTER SCHOOLS: A VIABLE REFORM INITIATIVE

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CHARTER SCHOOLS: A VIABLE REFORM INITIATIVE

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Charter Schools: A Viable Reform Initiative

Executive Summary

Charter schools offer policymakers a structure that *integrates* many ideas that heretofore have met with resistance. As part of a charter school structure, educators within existing public or private schools, parents, or other members of the community develop a proposal describing how they would operate a school and what specific outcomes they would achieve. Local school boards or other county/state entities are authorized to grant a "charter" to this group and to hold them responsible for the provisions of their proposal. Once granted a charter, a school receives formula-driven funding as if it were a public school district. Two key differences exist. First, these charter schools are freed of most state and local regulations, allowing them to implement innovative ideas. Second, if these schools fail to attain outcomes as specified in their charter contract, they are put out of business.

Charter schools, therefore, offer a significant departure from the standard management structure of public schooling. However, if implemented as an *option* and if done initially on a *pilot* basis, charter schools offer many potential reforms for education. District boundaries would no longer dictate where a child attends school since charter schools serve as an enrollment option for students, parents, and teachers. Decentralization would be achieved by granting full control over the entire school budget as well as management and personnel decisions to school-based councils. Removal of most state and local regulations (other than those necessary to ensure safety, nondiscrimination, and high educational outcomes) would provide opportunities to be innovative and eliminate the ability to lay blame for poor achievement elsewhere.

On the other hand, charter schools continue to subscribe to the American democratic ideas of the common school--that all children have the right to a free public education. To this end, charter schools are to be tuition-free, non-sectarian, and cannot discriminate on the basis of race, religion, or disability. Although private schools can be brought into a charter school program, they need to meet the same standards as other public schools seeking charter status and public funding.

To date, only two states--Minnesota and California--have passed charter school legislation although many other states have considered similar action. This report represents details from these two states regarding charter school formation, including roles played by individual teachers and others as organizers, by local school boards as sponsors, and by county or state officials in providing an appeals process and technical assistance. Statutory requirements, legal responsibilities, funding mechanics, and employment issues including hiring and dismissal, collective bargaining, and job security are also detailed.

The report offers recommendations to policymakers considering potential charter school legislation, analyzing specific questions as follows:

- *Who should sponsor?* Local school boards represent an appropriate entity to sponsor charter schools; however, it is important to establish a county or state appeals process for organizers who believe that a denial by a local board was inappropriate.

- *Which state laws/rules should remain?* Policymakers should not review every education-related law and rule to identify which should apply to charter schools. Instead, a general set of minimums should be established that focus on student outcomes,

nondiscriminatory procedures, and the health, safety, and welfare of students.

▸ *What about the mechanics of funding?* Methods used in California and Minnesota illustrate that direct funding to charter schools can be accomplished. Given, that some economies of scale will be lost when operating an individual school, charter school organizers should develop a "small business" financing plan.

▸ *Who should govern?* Since the legal and fiscal authority will reside at the school-level, the state should establish minimums regarding a charter school's local governance/ management structure. However, policymakers should resist the temptation to specify the exact composition in order not to "mandate decentralization."

▸ *How can resistance be overcome?* Efforts should be made to obtain input and to communicate with individual members of the local school boards association and teachers unions regarding their potential new roles. Local school boards will actually gain power by being able to develop performance-based charters with some or all of their schools and in turn will be freed from most state regulations; teachers will gain a stronger voice in the focus and management of their school.

▸ *What about private school inclusion?* States must give careful consideration to the question of including private schools in the chartering process. If included, they should be held to the same state requirements as other public schools seeking charter status and public funding.

▸ *Do charter schools conflict with consolidation efforts?* Steps should be taken to ensure that appropriate educational programming can be provided without additional costs. It is important that charter schools do not become eligible for "small school" weights or other similar support.

▸ *What role should the state play?* Providing technical assistance support for charter school organizers (including the development of a small business finance plan) and establishing a state or county appeals process are important. In addition, distribution of charter school information is also necessary.

▸ *Will charter schools cost more?* Charter schools can be initiated with fairly nominal state start-up costs; however, total costs are dependent upon specific legislative provisions. If the program is optional and begins with a small group of willing participants, no additional funding for training would be necessary. If the state chose to implement a program that is mandatory and/or includes a large percentage of schools immediately, additional training would be necessary. Also, if private school students are eligible to participate, additional costs would also occur since states are currently not paying for their education. In addition, state-level technical assistance and an appeals process would also cost a small amount. Finally, a continued look at funding equalization and at-risk support is important to ensure that all interested schools can develop the infrastructure necessary to move toward a charter school setting within a few years.

This report illustrates that charter schools appear to be a viable reform initiative. This is especially true for states in which "gridlock" has occurred regarding the creation of a school choice system, the decentralization of power to the school-level, and/or encouraging more innovative and accountable systems. Charter schools have the appeal of allowing these activities to occur within schools and communities that believe such changes will improve educational outcomes. Although the implementation of such schools will not be easy, the potential benefits of establishing charter school legislation outweigh the impending policy battles.

Table of Contents

Introduction 1

What Are Charter Schools? 1

What's Happened So Far Across The Country? 1

What's the Big Deal About Charter Schools? 2

How are Charter Schools Generally Formed? 3

Who Are The Key Players? 3
- Organizers/Petitioners 3
- Sponsors/Appeal Process 4
- Advisory Committee/ Technical Assistance 4
- Charter School Governing Body 5
- Final Approval 5

What are Charter Schools Required to Do? 5

What About Admission Standards? 6

Who is Legally Responsible? 6

How are Charter Schools Funded? 7
- Basic Operational and Minor Capital Funding 7
- Major Capital Expenses 7
- Special Education 7
- Transportation 7

What About Employment Issues? 8
- Employment and Dismissal 8
- Collective Bargaining 8
- Job Security and Retirement Benefits 8

What are Key Policy Considerations? 9
1) Which entities should be allowed to sponsor charter schools? 9
2) Which specific state laws/rules should charter schools be held to? 9
3) Should the mechanics of funding a charter school prevent the state from moving ahead? 10
4) What type of local school governance structure should be established? . . 11
5) How do you overcome potential resistance from local boards and teacher associations? 11
6) Should private schools be considered for inclusion? 12
7) Will charter schools conflict with state efforts to consolidate school districts? 12
8) What role should the state play, if any, in providing technical assistance? 12
9) Will charter schools cost more? 13

Will Passing Charter School Legislation Be Easy? 13

Appendix A: Comparison of Charter School Laws: Minnesota and California
Appendix B: Minnesota's Outcome-based School Legislation (1991)
Appendix C: California's Charter School Legislation (1992)

Introduction

Despite the efforts of many dedicated professionals from within and outside the educational arena, the search for educational excellence is far from over. Many argue that the traditional structure of the public education system is outdated, and that systemic organizational restructuring must occur. In response, a myriad of sometimes conflicting ideas are offered as essential to restructuring the system, including choice, outcome-based education, accountability, autonomy, competition, market-driven schools, innovation, site-based management, and empowerment. Also adding to the debate are issues over what role state and local school boards should play in a restructured school system. How best to create changes which draw upon these ideas and which mitigate to some degree the "top-down v. bottom-up" controversy is a central question whose answer may lie in something called a "charter school."

What Are Charter Schools?

A charter school is an autonomous entity which operates on the basis of a charter or contract between the individual or group (e.g., teachers, parents, others) which organizes the school and its sponsor (e.g., local school boards, county or state board). The charter or contract specifies the educational plan for the school, the educational outcomes, how they will be measured, the management plan for the school, admission policy, and how the school will comply with other stated requirements. Once granted a charter, the school begins to receive educational formula-driven funding as if it were a public school district. The charter is in effect for a specified period of time, during which the school is accountable to the sponsor and the parents for the students' attainment of specific educational outcomes. In exchange for accountability, the charter school is freed from many of the district and state regulations that may often prevent innovation. When the initial charter contract is up, and if the school is meeting its student education outcomes, has not violated any laws, or grossly mismanaged its affairs or budget, it can be renewed. If charter schools fail to attain outcomes as specified in their charter contract, they go out of business.

Viewed as a departure from the standard format currently used to create and run public schools, charter schools are being promoted around the country as a means of integrating many of the restructuring ideas that heretofore have met with resistance. Operating as an existing public or private school under a charter contract, a school-within-a-school, or as a newly created entity, it is believed that these charter schools could provide more educational options for students, parents, and teachers. One goal is to increase learning opportunities by offering a particular curriculum focus, subscribing to a specific education philosophy, or utilizing innovative practices (e.g., multi-age classrooms, year-round schooling). These schools are also designed to draw on teachers' entrepreneurial spirit and to offer them new professional development opportunities. In addition, charter schools provide the public with schools that contractually define their accountability for students' educational outcomes.

It is important to bear in mind that the charter school concept is fairly new. Thus, specific implementation mechanics vary from state to state, dependent upon educational needs and political climate. No one definition or best means to implement charter school provisions exist. Instead, this report represents a more aggregate analysis of the charter school concept, with specific focus on information obtained through document analysis and telephone conversations with key people in Minnesota and California--two states that have actually implemented such provisions to date.

What's Happened So Far Across The Country?

Although a great deal of activity has occurred across the nation, only two states have actually passed charter school legislation. In 1991, Minnesota initiated "outcome-based schools" (i.e., charter schools) legislation that authorized the creation of up to eight such schools across the state. In September 1992, California adopted a charter schools law which

will allow the creation of up to 100 such schools in the state.

Since 1991, four charter schools have formally been approved in Minnesota; however, only one school is actually operating during 1992/93. Located in a donated city recreation building in St. Paul, this school offers a year-round program for 35 at-risk adolescents and young adults from ages 13-21. It is anticipated that three other charter schools will open during Fall 1993, one serving the needs of deaf students, another offering multi-age, multi-activity classrooms focused on an environmental theme, the third is a private school offering a Montessori program. About a dozen other proposals have been or are still being considered by various school boards throughout Minnesota. Given the recent passage of the California law, their current focus is on distributing information and answering questions regarding the law; it is anticipated that the earliest implementation date for any charter school in California would be Fall 1993.

Other states that have attempted and/or are still attempting to pass charter school legislation include Connecticut, Massachusetts, Pennsylvania, New Jersey, Michigan, Tennessee, Florida, and Colorado. Charter schools were also proposed (but not enacted) at the national level within both S.2, the Senate's Neighborhood Schools Improvement Act, and in HR 4323, the House Education Improvement bill.

In Arizona, the concept of charter schools was offered by Governor Symington's Task Force on Educational Reform within their recommendation to develop "New Arizona Schools." Although introduced in 1992 as part of a comprehensive legislative package, this concept failed due to both its lack of specific details and to the political turmoil surrounding the overall reform attempt.

What's the Big Deal About Charter Schools?

There are several reasons why charter schools are gaining attention around the country; they possess many characteristics that make them an attractive addition to our public education system. First, charter schools address the issue of improving *educational choice* for students, parents, and teachers in a number of ways. For teachers, charter schools offer a chance to work in autonomous, innovative schools that attempt to utilize different philosophical approaches, educational programs, teaching methods, and assessment tools. New professional development opportunities are presented to teachers as they are directly involved in all phases of school operations, from curriculum planning to management.

Parents and students benefit by the increased diversity and innovations of the new charter schools. The essential requirement for their continued existence is high *student outcomes*. The decision to attend a charter school lies with parents in that students can be withdrawn from a charter school at any time.

In addition, charter schools subscribe to American democratic *ideals of the common school*. They are tuition-free; non-selective in student admissions; non-sectarian; and cannot discriminate on the basis of race, religion or disability. Although private schools can be brought into a charter school program, it is expected that they meet the same standards as other public schools seeking charter status and public funding.

Charter schools can also address the issue of *decentralization* in a way that traditional site-based management activities may not. In Minnesota, charter schools are autonomous legal entities. They make all their own administrative and instructional decisions and are legally liable for them. This prevents problems encountered when schools are site-base managed, but the district remains legally liable for the decisions made by school teams. In accord with this notion of autonomy,

schools receive their funding directly from the state as if they were school districts.

Many in education argue that given the restrictions and regulations imposed upon schools, creating truly different, innovative schools is nearly impossible. Charter schools address this problem directly by creating a unique trade-off between *autonomy* and *accountability*. After a proposal is approved by a local school board or other authorized sponsor, charter schools are generally left alone to manage their own affairs. They are subject to the same audits and inspections as regular public schools, but they are not held to all the rules and regulations imposed by school districts and the state, which can stifle the innovation that could otherwise occur. Instead, they are subject to charter school laws which acknowledge their autonomous nature.

Charter schools are also directly accountable to the parents of children at the school. Parents and staff vote in an election for a charter school's board of directors. Parents may also hold seats on the board and are free at any time to remove their children from the school.

Finally, advocates of a more *market-driven* education system believe charter schools are a significant step in the right direction. By definition, these schools will be designed to attract educational consumers, thus introducing competition within the educational system.

How are Charter Schools Generally Formed?

There are a number of players involved in the creation of a charter school. The process begins with a group of teachers or other individuals who want to create a charter school. Depending on how the state law is established, these individuals could be from within the public or private sector. These *organizers/petitioners* develop a school plan, specifying all the details necessary to provide a comprehensive picture of what the school will be like and how it will be managed. To help the organizers draft a well-thought out and workable proposal addressing financial and other important issues, the state may provide some form of a *advisory committee* and/or *technical assistance*. Once an initial proposal has been developed, the organizers present their ideas to a group called the *sponsor* that can legally enter into contract and hold them accountable for outcomes. Depending on the viability of the plan, the sponsor may or may not approve the charter contract. If the organizers' plan is not approved and the group believes they have a viable plan, they may follow an *appeals procedure*. There may also be another group which is responsible for *final approval* of each charter school. Finally, once a school is approved, it must develop its own administrative body, referred to as the *charter school governing body*.

After a charter school is approved, its board can lease space, hire personnel, contract for services, and enroll students. In many ways the school operates like any other public school, except that it is autonomous and responsible for its own decision-making and operations. It is subject to yearly financial and program audits; regular inspections; and health and safety standards. A major difference between existing public schools and charter schools is that charter schools must tell their sponsors what student outcomes will be obtained. If the school does not meet these outcomes, it loses its charter.

Who Are The Key Players?

This section looks more specifically at the role key players have in the charter school process, with a focus on relevant aspects of the laws in Minnesota and California.

Organizers/Petitioners

It is envisioned that charter schools could be generated by teachers, parents, and/or other community members, including people from organizations such as colleges and universities, non-profit social service agencies, museums, cities, and hospitals.

In Minnesota, the law has designated one or more state-licensed (i.e., certified) teachers as the organizers of charter schools. Others may join in the organizers' efforts, but a

charter school proposal *must* be led by certified teachers. This arrangement was not the original intent of the charter school proponents in Minnesota; however, strong opposition from teachers' unions made it necessary to limit organizers to teachers in order to get the measure passed. However, certificated teachers employed within private schools are also eligible to organize a charter school.

California law permits any individual or group, including teachers, parents, or others, to petition to start a charter school. However, before the petition can be considered by a sponsor, it must contain the signatures of at least 10% of the teachers in a given district in which the proposed charter school is to be located or at least 50% of the teachers in any school within that district. In addition, the law also prevents the conversion of "currently operating" private schools to a charter school.

Sponsors/Appeal Process

The sponsor of a charter school is responsible for ensuring that the charter school proposal presented by the organizers is sound and will serve the needs of students. Potential sponsors include state boards of education, local school boards, or a board created specifically to oversee the charter schools.

In Minnesota, the law allows each local school board to sponsor a maximum of two charter schools. Given the concern that a particular school board may not want to approve a charter for a school in their district, the law allows charter school organizers to seek sponsorship from any local school board in the state. This is viewed as an informal appeals process.

However, sponsorship is still under the exclusive control of school districts, with no appeal to a state body. State personnel have noted that this has proven to be problematic. To date, many school districts have not been fully supportive of charter schools because districts lose funds with every child who leaves to attend a charter school. Seeking another school board other than their own has also not been very successful because school boards do not want to offend neighboring districts.

Avoiding the potential difficulties inherent in exclusive local school board sponsorship, California has selected school boards as sponsors but has also appointed an alternative sponsor as part of a formal appeals process. In this state, if a local school board denies a charter, the organizers can request that the county superintendent of schools appoint a review panel composed of teachers and school board members from other districts. The panel can request that the school board reexamine the proposal. If the school board still denies the proposal, the organizers can request the county board of education to hold a public hearing to review the proposal and establish the amount of parental and employee support. The county board may then serve as a sponsor and grant the charter school.

Advisory Committee/ Technical Assistance

The Minnesota charter school law prescribes the creation of an ethnically and socioeconomically diverse state-level advisory committee to assist organizers whose schools will serve primarily minority students. Specifically, the committee is to review the proposed curriculum for the school. To date, however, this committee is not operating since the number of proposed charter schools has been small and no additional funding was appropriated to support the work of this committee.

Technical assistance is however being provided by the state department's enrollment options coordinator and school finance department so that proposals will have a better chance for sponsorship and approval. This assistance focuses on potential pitfalls, design considerations, and financial aspects of creating a school.

California legislation does not describe any form of state board guidance, noting that the state preferred to keep its charter schools' development in the hands of organizers and sponsors alone. However, it does require their state board to disseminate information and their state department to review the educational effectiveness of the program.

Charter School Governing Body

Like other schools, charter schools must have some form of administration to run its affairs (i.e., being responsible for the school's budget; contracting for services; hiring and dismissing staff; selecting curriculum and all other administrative functions of the school). This administration may take a number of forms.

In Minnesota, a charter school board of directors fulfills these responsibilities. First, a temporary board of directors consisting of the organizers and others interested in the approval of a school develops the plan for the school and works with the sponsoring school board to write the contract. After a school is approved, the temporary board has authority to hire staff and do what is necessary to establish the school. They also develop the protocol for the election of a permanent board of directors, which is voted on by the staff and parents of children who will be attending the school. The election is paid for with funds from the school's budget.

By law, the elected board of directors must consist of teachers, staff, and parents. Minnesota law does not specify the numbers from each group, but it does require that teachers compose a majority of the board. In small schools, there may only be three or four teachers; consequently these boards may be quite small. In a few cases where this has occurred, charter schools have set up local-level advisory boards to assist the board of directors in decision-making.

California's law leaves the form of school management entirely up to the school itself, as defined within the specific charter agreement.

Final Approval

Minnesota charter school organizers must first receive sponsorship by a school board and then also be approved by the state board of education. This final review by the state board provides a second check to ensure a level of quality and consistency among charter school contracts.

California legislation does not designate any approval beyond that of a sponsoring local school board or a county board of education.

What are Charter Schools Required to Do?

In both Minnesota and California, charter schools are exempt from the vast majority of state laws and state board rules that apply to current public school districts. In both cases, the charter school legislation notes specific provisions that charter schools must follow at a minimum and allows additional provisions to be added as negotiated between the organizer and the sponsor. Appendix A summarizes the key requirements for both states, while Appendices B and C offer the specific charter school laws for each state.

Many charter school requirements are quite similar in both states in that prior to approval in both states, organizers must develop a fairly detailed description of the proposed education program, the specific outcomes pupils are to achieve, the proposed governance/management structure, and procedures to ensure the health and safety of students. For example, in Minnesota, the proposal must contain details regarding the educational program of the school; which of the purposes named in the legislation it will serve; learning outcomes and how they will be measured; instructional approach; length of the school year; the age/grades to be served; classroom organization; the management and administration plan for the school; the first year budget; method of student and financial accounting; and types and amount of insurance coverage.

In other areas, Minnesota charter school law tends to be more specific than the California law. For example, Minnesota's law requires that districts grant a leave of absence for teachers wishing to teach in a charter school and prohibits charter school teachers from remaining a part of the district collective bargaining unit (they may create their own instead). In California, organizers are required to address these same issues in their charter

contract but are allowed to determine what the specific provisions will be.

Both states took the approach that charter schools will only be held to the state laws and state board rules that are specifically stated and/or referenced in the charter school law, rather than trying to list all the things they are exempt from.

What About Admission Standards?

Given that charter schools are intended to provide an open enrollment option to students and parents, concerns arise over adequate safeguards against selective and potentially discriminatory admission criteria, and "white flight." Both Minnesota and California laws require that charter schools be nonsectarian and tuition-free, and that they develop admission procedures that do not discriminate against pupils on the basis of ethnicity, national origin, gender, or disability. In addition, both states require charter schools to focus on racial and ethnic balance issues. To this end, Minnesota's law states that a charter school *may* limit enrollment to residents of a specific geographic area if the percentage of non-Caucasian population in the geographic area is greater than the percentage of the non-Caucasian population in that congressional district. Finally, Minnesota charter schools are required to use a lottery system if the number of applicants exceeds capacity. In summary, these provisions essentially mean that charter schools in both states must accept and provide programs for all students that apply (including special needs students), if space exists.

Given that charter schools may offer a special type of educational program, a question arises as to whether special types of admission requirements can be established (e.g., dress codes; parental participation). In response, Minnesota law states such schools *may* limit admission to pupils within an age group or grade level; pupils eligible for participation in a special state graduation incentives program; and pupils who have a specific affinity for the school's teaching methods, learning philosophy, or subject offerings. However, these charter schools *may not* limit admission on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

Finally, questions arise concerning the attendance "rights" of students who live near a charter school. California law states that any existing public school converting partially or entirely to a charter school shall give admission preference to pupils residing within the former attendance area of the school. It was noted that the Minnesota law does not contain a similar provision because it was not initially envisioned that existing public schools would convert to a charter school. The Minnesota law does, however, provide that the students who are attending a charter school whose contract was not renewed or terminated for other reasons, may re-enroll in their resident district or apply to another nonresident district without having to follow state enrollment application deadlines.

Who is Legally Responsible?

As mentioned previously, charter schools in both states are being organized as autonomous legal entities. In Minnesota, the organizers of a charter school must either organize and operate a school as a cooperative or as a non-profit organization. This provides the legal basis for a charter school's autonomy.

Charter schools in Minnesota must carry their own insurance, which would be similar in type to what is required of a school district, but a lesser amount. The board of directors of a school may sue and be sued. Indeed, the law specifically grants the state board of education and local board sponsors immunity from civil or criminal liability with respect to all activities related to an outcome-based charter school they approve or sponsor.

In California, depending upon the provisions of the individual charter contract, the individual charter schools may or may not become autonomous entities in reference to legal liability issues. Since the provisions of the charter contract serve to override all other state laws and state board rules, the local school board cannot be held legally responsible

if indeed the charter contract states that the charter school has legal autonomy. It should be noted, however, that even if the decision is to keep the legal responsibilities at the local board level, the charter school still remains autonomous for purposes of funding.

How are Charter Schools Funded?

In both Minnesota and California charter schools are funded as though they were stand-alone school districts. However, because of the differences in school financing between the states, the mechanics differ.

Basic Operational and Minor Capital Funding

In Minnesota, charter schools are generally eligible to receive their portion of *state* monies, but cannot receive any local levy funding (similar to Arizona's override provision) or any state funding that requires a local levy match. This means that the department of education calculates the state average general education revenue for that year and provides this amount per weighted average daily membership (i.e., student count) *directly* to the charter school. In addition, state and federal funding for special education, compensatory revenue, limited English proficiency, vocational, and other special programs is provided given that no local funding is required as a match. This formula funding also includes a small amount to be used for minor capital expenditures. In recap, Minnesota charter schools are eligible for a large percentage, but not all of the funding that they might have had available to them if they had remained part of a school district. Local bond and levy funds, as well as any state funding that requires a local levy match, are not distributed directly to them.

In California, the operational funding made available to the charter school is basically determined by taking the total amount of *local and state* formula-driven funding available to the school district in which the charter school is located, and dividing that by the charter school's weighted average daily student attendance. This formula amount includes state and federal funds for special education students served, includes funding for transportation (if provided) and funding for smaller capital items such as furniture and books. Therefore, the total amount received by any given charter school is the school's portion of the state and local funding that would have otherwise been provided to the district. As of mid-November, 1992, a decision had not yet been made by the state's department of education whether funds will go directly from the state to the charter school, or if the funding will still be transmitted to the district as a separate line item only accessible to the charter school.

Major Capital Expenses

In both California and Minnesota, charter schools are *not* eligible to receive any portion of the bond funding commonly used by school districts for major capital construction, acquisitions, and repairs. Instead, they are encouraged to work out agreements within their charter contracts regarding the use of existing district space and/or the leasing of other building space using their operational funding.

Special Education

In Minnesota, similar to provisions used for their open enrollment provisions, the school district of residence continues to count special education students in their formula and receives the corresponding funding. In turn, the charter school bills the district for certain costs of providing special education services for that student.

In California, charter schools will count any special education pupils served in their student count and therefore directly receive any corresponding local, state, and federal special education funding.

Transportation

Transportation in the Minnesota charter school program is handled in a manner similar to their other open enrollment provisions. That is, the district in which the charter school is located is responsible for transportation of

students who live in the district, and ultimately will be reimbursed through their formula for transportation. Those students who live outside the district borders are responsible for their own transportation to the border of the district that contains the charter school (with reimbursement occurring for low-income families). From there, the district where the school is located is responsible for transporting the child to school. Continuous home to school service can be provided by the district in which the charter school is located through local agreements. Bus passes are being used in situations where the transportation schedule needs of the charter school (e.g., longer day and/or year program) differ from that of the district. However, it was noted that this issue has not been resolved regarding young children or if public transportation is not available.

In California, provisions regarding transportation responsibilities are not specified within the charter school law and are to be worked out as part of the charter contract. However, funding for any transportation provided would go directly to the charter school as part of their general operating funding. In turn, the charter school could use this funding to contract with the district or other entity to provide transportation.

What About Employment Issues?

One of the most politically-charged components of a charter school program is resolving employment-related issues. As teachers move from being district employees to being employees of individual charter schools many questions must be addressed. Who will hire and release school personnel? What rights will teachers have regarding collective bargaining? Will teachers in charter schools have job security? What about retirement benefits?

Employment and Dismissal

Minnesota law specifically states that a charter school's board of directors is responsible for employing and contracting with teachers, as well as hiring their non-teaching staff. The board also dismisses teachers and other staff as needed. As noted earlier, the board of directors has full legal authority and responsibility relative to the operations of the charter school, including the ability to sue and be sued.

In California, provisions relative to who hires and fires school personnel is to be developed as part of each charter school contract.

Collective Bargaining

Minnesota law states that teachers in charter schools may form a collective bargaining unit within their school, but that this unit must be separate from any other unit (i.e., the charter school teachers may not bargain as part of a school district unit). Charter schools also have the choice to not enter into collective bargaining at all.

California leaves the decision regarding collective bargaining up to the individual school as specified within their charter contract. This means that a school may choose to not allow collective bargaining, they may allow the creation of their own unit, or they may follow the collective bargaining agreements of other school districts.

Job Security and Retirement Benefits

In Minnesota, school districts must grant a leave of absence to any teachers who wish to teach in a charter school for any numbers of years; this ensures that teachers have the ability to return to a position in the public school (i.e., job security). They may also continue to collect their retirement benefits by contributing both the employee and employer contributions of their retirement account.

California law requires that charter schools provide a description of proposed job security and retirement rights as part of their charter contract; however, no specific guidelines are offered. Instead, each individual charter school will need to work this out with their sponsor. It was noted that there could be some uncertainty if indeed a county board serves as a sponsor since this board cannot compel a school district to give the charter school

employees the right to return to their employment.

What are Key Policy Considerations?

For reasons highlighted initially, it appears that charter schools are a viable reform initiative. This is especially true for those states in which "gridlock" has occurred regarding the creation of a public or private school choice system, the decentralization of power to the school-level, and/or encouraging more innovative and accountable systems. Charter schools have the appeal of allowing each of these activities to occur within schools and communities that believe such changes will improve educational outcomes.

In addition, given limited funding to provide large scale training and funding support, offering a charter school-type *option* for communities may allow states to progress with educational restructuring activities during tight fiscal times. Indeed, additional training for teachers, parents, and other school-based personnel to support their new roles is desirable, but it may not be essential for the first group of schools willing to pioneer the concept. However, a continued look at funding equalization and at-risk support is important to ensure that all interested schools can develop the infrastructure necessary to move toward a charter school setting over the next few years.

The following represent some, but not all, key questions that need to be addressed by policymakers when they consider charter school legislation. Unfortunately, no "correct" answers exist; each state must determine how best to implement charter schools within their current financial and political climate. What follows is a recap of key issues and food for thought.

1) Which entities should be allowed to sponsor charter schools?

Deciding which entities should be allowed to approve or disapprove a charter school proposal will evoke much debate. In Minnesota, schools must first seek approval from a local governing board and then the state board of education. Although schools are allowed to seek sponsorship from a school board other than their own, local boards still have a monopoly over the implementation of charter schools since no formal appeals process exists. For this and other reasons, the approval and implementation of charter schools has been very slow. It was noted by state department personnel that legislation may be introduced to allow schools to seek a charter directly from the state.

In California, approval must be first sought from the local board of the district in which the school is located. If approval is denied, a county-level appeals board is established consisting of school board members and teachers from other districts in the county. This county-level appeals board has the right to grant a charter directly to the school. It was noted that initially a state-level board was considered, but the general feeling was to limit any state involvement. Given the recent passage of the law, it is uncertain how well this process will work, but legislative personnel are optimistic.

It seems imperative that a state considering adopting charter schools must give sponsorship serious consideration--identification of a cooperative sponsoring body is instrumental to successful operation of a charter schools program. Local school boards appear to be likely candidates, especially those willing to undertake a new policy role focused on educational outcomes and evaluation of progress. However, experience in Minnesota suggests that alternative sponsors should be available to which organizers can appeal if their proposal has been denied by their first potential sponsor.

2) Which specific state laws/rules should charter schools be held to?

Given recent calls to remove state and local-level barriers to restructuring as well as the need for higher levels of accountability, charter schools appear to offer a viable structure for state reform. Many current state laws and rules focus on program/fiscal accountability requirements, certification standards, and schooling minimums (e.g.,

length of day/year). However, the vast majority of these laws focus on inputs rather than outputs. While current state waiver provisions are a step in the right direction, seeking approval on a case-by-case basis can consume a great deal of energy. Instead, what California and Minnesota have attempted to do is identify the minimum "outcome" requirements and passed legislation that freed their charter schools from having to focus on other less essential requirements.

One could argue that instead of creating charter schools, focus should be placed on freeing all schools from non-essential state laws and rules. While this is a worthy goal, the difficulty lies in being able to identify on an a priori basis an exact list of minimum standards and to develop and monitor performance contracts with every school in the state. Instead, charter school legislation allows a more manageable number of schools to work through the "bugs" of any significant legislative reform initiative. Within a few years, a more definitive list of state minimums can be established, along with a streamlined process to help schools focus primarily on outcomes.

In trying to identify minimum requirements for charter school, policymakers should not go through every education-related law and rule to identify which should apply and what can go. Little will be accomplished given that many laws were enacted to meet the needs of various interest groups. Instead, a general set of minimums should be identified that focus on high standards and outcomes for students, guarantee nondiscriminatory procedures, and ensure the health, safety, and welfare of students. Then, through the process of working with a smaller group of charter schools during the first few years of the process, additional safeguards/standards can be included if needed.

3) Should the mechanics of funding a charter school prevent the state from moving ahead?

One of the concerns with traditional school-based management activities is that personnel at the school-level end up with a very limited portion of their budget to actually manage. Within charter schools, school-level personnel and/or their boards will have control over nearly 100% of the funding currently generated through the students they serve. However, several real concerns arise. First, the mechanics of actually implementing such a system are often overwhelming. Second, given that many administrative-type services currently provided by the district office (e.g., transportation, accounting, personnel background checks) result in economies of scale, it may be difficult for charter schools to support such tasks.

In response to funding mechanics, both California and Minnesota have found acceptable, but not "perfect" methods of accomplishing this task. In California, charter schools basically get their entire "portion" of state and local funds that normally would have gone to their district, except for local bond funds. In Minnesota, charter schools receive a state average amount per student, plus other applicable state and federal monies. But, they do not have access to local levy or bond funds and it was also noted that during their first year of operation they are not eligible for the portion of funding driven by a prior year student count (approximately 15%). It was noted that in California, the inability to directly access is not perceived to be that much of an issue, whereas in Minnesota, the loss of local levy and bonds funds is having an impact. However, in both cases, it was noted that these funding system "imperfections" are not that great given what charter schools are attempting to do.

The economies of scale issue is also a viable concern, however, it also is not great enough to prevent progress. In both states, the laws simply state what funds will and will not be available to those considering the charter school concept. Then it is up to the individual organizers to decide if they can run a school on this amount of funding. Minnesota state personnel noted that part of their technical assistance support is to help interested organizers develop a "small business plan" which seriously looks at what finances they will actually have available to them. Through this process of planning, potential organizers

can determine the feasibility of operating their school on the funding driven by their student count. This "ounce of prevention" process should be considered in other states.

In addition, it was repeatedly noted that charter schools are intended to provide avenues for innovative individuals and groups to develop more educational options for students, parents, and teachers with the goal of higher outcomes. Indeed, it is envisioned that creative solutions in reference to leasing space, subcontracting certain costs to another school district, and a streamlining of costs due to fewer state requirements may overcome most real and perceived problems related to the funding of these schools.

4) What type of local school governance structure should be established?

Much debate has already occurred in states that have considered the initiation of school site management teams. Major issues evolve around whether the legislature should prescribe in law the exact composition of such a team, how it should be formed (elected v. appointed), and specific powers. Unfortunately, evidence from existing site-based managed programs across the county reveals pros and cons with each scenario.

In Minnesota, the law prescribes minimal guidelines whereby a charter school board of directors must be established through an election process and that the majority of its members must be teachers employed at the school. In addition, the law indicates that this board has full authority over all operations of the school including budgetary and personnel issues and that it can sue and be sued. Indeed, the law clearly states that the charter school and its board becomes fiscally and legally autonomous, with oversight provided by the local school board sponsor through the charter contract.

In California, these types of issues are not prescribed specifically in their charter school law; instead, it indicates that the petitioners must detail within their proposal exactly how they plan to address each of these management activities. It was noted that the charter school petitioners and the potential sponsor are to work out these issues as part of the contract.

The approach taken in these two states is fairly different in reference to prescribing specific management procedures. Both state provisions, however, involve a certain amount of "trust" in that certain details are left to be worked out between the school and its sponsor. Once again, if the total number of allowable charter schools is kept fairly small, these types of issues can be worked out within the pioneering communities. Although it appears that certain minimums are important, additional specificity can be added to the law at a later date if concerns arise.

5) How do you overcome potential resistance from local boards and teacher associations?

In most states, the development of charter schools will be viewed as a significant threat to the traditional roles of school board members and the collective bargaining power of teacher units. To this end, policymakers need to obtain feedback from these groups as legislation is considered and to help individual members of these organized groups realize their potential new roles. For example, in California it was noted that many local school boards will actually gain in power by being able to develop performance-based charters with some or all of their schools and in turn the board and the schools will be freed from most state regulations. Teachers also have a lot to gain by being able to have a much stronger voice in the overall focus and management of the school.

Just as important as good communication, is the need to maintain the "voluntary" nature of the charter school concept. Although state-mandated decentralization would result in extensive changes more quickly, the amount of negative energy created by local resistance to such mandates tends to offset real progress. Instead, charter school offer a voluntary means for teachers and others who are ready to take on this new challenge.

Finally, it is important to include some mechanism to ascertain the "real" support of

teachers and parents in a given community seeking to establish a charter school, especially if considering the conversion of an existing school to a charter school. The potential in-fighting that could result from the efforts of organizers when no support exists, could threaten the effective operation of an existing school as well as the conversion process if the school is approved. Even teachers who develop plans for a new school may find great opposition from their colleagues and administration who may view the plans as an attempt to say that the current school is somehow faulty. To this end, California requires a minimum number of signatures from existing teachers and then a public hearing to determine the level of support.

6) Should private schools be considered for inclusion?

One of the key issues that needs to be addressed is whether to allow private school participation in the state's charter school program. Minnesota allows existing nonsectarian private schools to be eligible for charter status, while in California no currently operating private school is eligible (although it was noted that a private school could be eligible if it dismantled or chose to create a new school from scratch). However, in both states it was determined that any charter school could not charge tuition, must be nonsectarian and must be non-selective and non-discriminatory in their admissions.

One rationale for including private schools is that many have effective educational programs and have already developed some of the characteristics that charter schools are trying to promote. A key argument against inclusion is that a level playing field does not currently exist given the admission selectivity of private schools. However, provisions similar to Minnesota whereby private schools are eligible if they agree to meet those state laws applicable to charter schools, may make this option more viable. The decision to include or not include (with restrictions) appears to be primarily a political issue, although if large numbers of private school students become involved, it also becomes a financial issue.

7) Will charter schools conflict with state efforts to consolidate school districts?

Thoughts must be given to whether small schools that otherwise would be slated for closure due to limited economies of scale should be allowed to charter themselves. This issue has given rise to much conflict in Minnesota given the state's consolidation plan which aims to close very small schools to increase efficiency. Several groups of teachers and parents have attempted to use the charter school process to preserve their community schools, especially at the elementary school level. To date, of the four schools that applied for charter status in an effort to remain open, only one has been successful.

On the other hand, if potential school organizers can demonstrate through their charter proposal that they can operate on the funding amount driven by their small student enrollment, then perhaps size is not as important. However, steps should be taken to ensure that adequate and appropriate educational programming can be provided without additional costs. To this end it is important to ensure that these schools do not become eligible for "small school" weights or other supports.

8) What role should the state play, if any, in providing technical assistance?

In both California and Minnesota, no funding was appropriated to the state department of education specifically for the implementation of charter schools, although both laws require some additional responsibilities from these agencies. In Minnesota, the state department is to appoint an advisory committee and provide final approval. Their state department also has chosen to provide technical assistance for interested organizers and sponsors, using an existing infrastructure already in place for their other open enrollment programs (e.g., transportation fund, staff). In addition, Minnesota already provides funding to all school districts for staff development in their school finance formula.

In California, their state board is required to distribute information and the state department of education must review the educational effectiveness of the program, with a report due in January 1999. Beyond these tasks, it was noted that it was not necessary to provide technical assistance support from the state at this point, given the smaller scale and general flexibility of their program.

If, however, a state wishes to ensure that charter schools are implemented as quickly and smoothly as possible, the state could play an important role in providing technical assistance and overseeing an appeals process. Support to help potential charter schools develop a small business finance plan and comprehensive charter provisions should be provided, especially if a state heretofore had not provided additional support for staff development.

9) Will charter schools cost more?

Always a key question in tight fiscal times, the answer to this question is, it depends. In California and Minnesota, no additional money was appropriated to support their charter school programs. However, in both cases, the programs are voluntary and are beginning with a very small percentage of their total school population. If a state chose to implement a program that was mandatory and/or hoped to include a very large percentage of schools immediately, then additional funding would indeed be necessary.

In addition, funding may be necessary if a state or county appeals process is established and/or if some state technical assistance is made available. However, the amount would not necessarily need to be that significant (e.g., $75,000). The potential advantages of this type of support for a charter school concept makes such an appropriation worth considering.

Finally, if private school students are permitted to participate, additional costs may be incurred since states are currently not paying for their education. Some propose that a smaller portion of state funding per pupil could be provided, therefore "saving" money on each public school student that moves to a private school charter. However, if one goal is to have charter schools be tuition-free, then this approach would not be as feasible since participating private schools could not use tuition to augment their funding.

Will Passing Charter School Legislation Be Easy?

The legislative experiences of Minnesota and California have demonstrated that passing charter schools is not an easy process. Minnesota finally passed their outcome-based school law on the third try, and only then because of major compromises. It was noted that there was strong opposition from teacher unions, school boards, and others who had a stake in the status-quo.

California has also had its experience with the rigors of passing charter schools in that two distinctly different charter school bills were offered to the governor by the legislature. The one ultimately signed did not have the support of the teacher unions given its certification, collective bargaining, and open enrollment provisions. Since the teachers' union had supported a different stance on these issues, controversy over charter schools remains in that state.

Overall, however, the potential benefits of establishing charter school legislation outweigh the impending policy battles. Offering a program that is voluntary, provides for true decentralization, includes contract-based accountability, offers greater professional opportunities for teachers, and creates more educational choices for students, parents, and teachers, is worth exploring. Will it be easy? Evidence in Minnesota, California, and several other states that have tried suggest not. Will it be worth it? Only time will tell as more states take on the task of negotiating outcome-based "charter schools" provisions as part of their continued search for educational excellence.

APPENDIX A

Comparison of Charter School Laws: Minnesota and California

COMPARISON OF CHARTER SCHOOL LAWS: MINNESOTA AND CALIFORNIA

ISSUE	MINNESOTA	CALIFORNIA
GENERAL ISSUES:		
Length of Charter	up to 3 years	up to 5 years
Legally Autonomous	yes	depends on charter
Autonomous for Funding	yes	yes
Number Allowed in State	8 (approx. 1500 schools in state)	100 (approx. 7000 schools in state)
Number Allowed Per School District	2	10 (unless whole district converts)
Preference Given to Schools Which . . .	-	target low achieving students
GROUPS INVOLVED IN THE PROCESS:		
Who Can Organize?	licensed teachers	any individual can circulate a petition to start a school
Who Can Sponsor?	any local school board	school's local school board
Who Takes Appeals?	-	county board of education
Who Gives Final Approval?	state board of education	none needed
Who Gives Organizers and Sponsors Guidance / Technical Assistance?	state department of education, if requested to do so	no formal assistance at state level, however, state board will disseminate information to potential sponsors

- Not specified in law

ISSUE	MINNESOTA	CALIFORNIA
BASIC REQUIREMENTS:		
Can Schools be Affiliated with a Religious Institution in Any Way?	no, must be completely non-sectarian in all aspects of operation	no, must be completely non-sectarian in all aspects of operation
Can Existing Private Schools be Eligible for a Charter?	yes, but must organize as a non-profit or cooperative and abide by charter school requirements	no, unless they dismantle and redevelop utilizing charter school requirements
Can School Charge Tuition?	no tuition	no tuition
Are There Safeguards to Prevent Discrimination?	yes	yes
ADMISSION STANDARDS:		
Cannot Limit Student Admission on Basis of:	race, ethnicity, religion, intellectual or athletic ability, measures of achievement or aptitude	race, ethnicity, religion, national origin, gender, or residence of pupil
Can Limit Student Admission By:	age; grade-level; aptitude for teaching method/philosophy or subject emphasis; or eligibility for state's high school graduation incentives program	admission requirements if applicable, however, must ensure that requirements are non-discriminatory
Can Limit Admission to Students Residing Within Geographic Area	yes, if fairly high minority population, as long as school reflects racial and ethnic diversity of area	no, except existing schools converting to charter can give preference to students in attendance area of that school

ISSUE	MINNESOTA	CALIFORNIA
CONTRACTS INCLUDE:		
Program/Assessments	description of educational program	description of educational program
	specific outcomes students will achieve	measurable student outcomes
	-	method used to measure pupil outcomes (performance-based)
Management/Finance Issues	description of management and administration plan for school (board of directors)	description of governance structure which ensures parent involvement
	types and amounts of insurance coverage	-
	-	public school alternatives for students choosing not to attend a charter school
	requirements and procedures for program and financial audits	manner in which program and financial audits will be conducted
	admission policies and procedures	admission requirements
Student Suspension/Expulsion	state's pupil fair dismissal act	specification of procedures to be followed
Health and Safety of Students and Staff	same as is required of school districts	specification of procedures to be followed; Employees will furnish criminal record
Ethnic Diversity	must reflect racial and ethnic diversity of area	specification of means to achieve ethnic, racial balance reflective of school district

- Not specified in law

ISSUE	MINNESOTA	CALIFORNIA
EMPLOYMENT ISSUES:		
Who Can Teach in a Charter School?	certified teachers only	teachers need not be certified, but charter must specify required employee qualifications
Teaching at a Charter School - Mandatory or Voluntary?	voluntary	voluntary
Will There be Job Security?	districts must grant teachers leave of absence to teach in charter school for length of time requested by teacher	charter describes teachers' rights to return to employment with district (to be worked out between school & district)
How Will Retirement Benefits be Handled?	employees can continue to accrue district retirement benefits while at charter school by paying both employee and employer contributions	must specify manner in which employees will be covered by state retirement system, public employees retirement system or federal social security
Will Schools be Eligible for Collective Bargaining?	yes, but school bargains as a single unit	depends on charter

APPENDIX B

Minnesota's Outcome-based School Legislation (1991)

MINNESOTA

OUTCOME-BASED SCHOOLS

Sec. 3 [120.064]

Subdivision 1. **Purposes.** The purpose of this section is to:

(1) improve pupil learning;

(2) increase learning opportunities for pupils;

(3) encourage the use of different and innovative teaching methods;

(4) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;

(5) establish new forms of accountability for schools; or

(6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

Subd. 2. **Applicability.** This section applies only to outcome-based schools formed and operated under this section.

Subd. 3. **Sponsor.** (a) A school board may sponsor an outcome-based school.

(b) A school board may authorize a maximum of two outcome-based schools. No more than a total of eight outcome-based schools may be authorized. The state board of education shall advise potential sponsors when the maximum number of outcome-based schools has been authorized.

Subd. 4. **Formation of School.** (a) A sponsor may authorize one or more licensed teachers under section 215.182, subdivision 2, to form and operate an outcome-based school subject to approval by the state board of education. The teachers shall organize and operate a school as a cooperative under chapter 308A or nonprofit corporation under chapter 317A.

(b) Before a teacher may begin to form and operate a school, the sponsor must file an affidavit with the state board of education stating its intent to authorize an outcome-based school. The affidavit must state the terms and conditions under which the sponsor would authorize an outcome-based school. The state board must approve or disapprove the sponsor's proposed authorization within 30 days of receipt of the affidavit. Failure to obtain state board approval precludes a sponsor from authorizing the outcome-based school that was the subject of the affidavit.

(c) The teachers authorized to organize and operate a school shall hold an election for members of the school's board of directors. All staff members employed at the school and all parents of children enrolled in the school may participate in the election. Licensed teachers employed at the school must be a majority of the members of the board of directors.

(d) The sponsor's authorization for an outcome-based school shall be in the form of a written contract signed by the sponsor and the board of directors of the outcome-based school.

Subd. 5. **Contract.** The contract for an outcome-based school shall be in writing and contain at least the following:

(1) a description of a program that carries out one or more of the purposes in subdivision 1;

(2) specific outcomes pupils are to achieve under subdivision 10;

(3) admission policies and procedures;

(4) management and administration of the school;

(5) requirements and procedures for program and financial audits;

(6) how the school will comply with subdivisions 8, 13, 15, and 21;

(7) assumption of liability by the outcome-based school;

(8) types and amounts of insurance coverage to be obtained by the outcome-based school; and

(9) the term of the contract which may be up to three years.

Subd. 6. **Advisory Committee.** (a) The state board of education shall appoint an advisory committee comprised of ten members. At least two members shall be African American, two members shall be American Indian, two members shall be Asian Pacific American, and two members shall be Hispanic. One of each of the two members shall reside within the seven-county metropolitan area and one shall reside within Minnesota but outside of the seven-county metropolitan area. In addition, at least one of each of the two members shall be a parent of a child in any of the grades kindergarten through 12. At least five of the ten members shall have family incomes that would make them eligible for free or reduced school lunches.

(b) Each sponsor listed in subdivision 3 shall request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately Caucasian to establish an outcome-based school in which one-half or more of the pupils are expected to be non-Caucasian.

(c) Each sponsor listed in subdivision 3 may request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately non-Caucasian if requested to do so by the individual or organization.

Subd. 7. **Exemption From Statutes And Rules.** Except as provided in this section, an outcome-based school is exempt from all statutes and rules applicable to a school board or school district, although it may elect to comply with one or more provisions of statutes or rules.

Subd. 8. **Requirements.** (a) An outcome-based school shall meet the same health and safety requirements required of a school district.

(b) The school must be located in Minnesota. Its specific location may not be prescribed or limited by a sponsor or other authority except a zoning authority.

(c) The school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize an outcome-based school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) The primary focus of the school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(e) The school may not charge tuition.

(f) The school is subject to and shall comply with chapter 363 and section 126.21.

(g) The school is subject to and shall comply with the pupil fair dismissal act, sections 127.26 to 127.39, and the Minnesota public school fee law, sections 120.71 to 120.76.

(h) The school is subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit must be consistent with the requirements of sections 121.901 to 121.917, except to the extent deviations are necessary because of the program at the school. The department of education, state auditor, or legislative auditor may conduct financial, program, or compliance audits.

(i) The school is a school district for the purposes of tort liability under chapter 466.

Subd. 9. **Admission Requirements.** The school may limit admission to:

(1) pupils within an age group or grade level;

(2) people who are eligible to participate in the high school graduation incentives program under section 126.22;

(3) pupils who have a specific affinity for the school's teaching methods, the school's learning philosophy, or a subject such as mathematics, science, fine arts, performing arts, or a foreign language; or

(4) residents of a specific geographic area if the percentage of the population of non-Caucasian people in the geographic area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, as long as the school reflects the racial and ethnic diversity of that area.

The school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils shall be accepted by lot.

The school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

Subd. 10. **Pupil Performance.** An outcome-based school must design its programs to at least meet the outcomes adopted by the state board of education. In the absence of state board requirements, the school must meet the outcomes contained in the contract with the sponsor. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the state board.

Subd. 11. **Employment And Other Operating Matters.** The school's board of directors shall employ and contract with necessary teachers, as defined by section 125.03, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The board may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The board may discharge teachers and nonlicensed employees.

The board of directors also shall decide matters related to the operation of the school, including budgeting, curriculum and operating procedures.

Subd. 12 **Handicapped Pupils.** The school must comply with sections 120.03 and 120.17 and rules relating to the education of handicapped pupils as though it were a school district.

Subd. 13. **Length Of School Year.** An outcome-based school shall provide instruction each year for at least the number of days required by section 120.101, subdivision 5. It may provide instruction throughout the year according to sections 120.59 to 120.67 or 121.585.

Subd. 14. **Reports.** An outcome-based school must report at least annually to its sponsor and the state board of education the information required by the sponsor or the state board. The reports are public data under chapter 13.

Subd. 15 **Transportation.** Transportation for pupils enrolled at a school shall be provided by the district in which the school is located, according to sections 120.062, subdivision 9, and 123.39, subdivision 6, for a pupil residing in the same district in which the outcome-based school is located. Transportation may be provided by the district in which the school is located, according to sections 120.062, subdivision 9, and 123.39, subdivision 6, for a pupil residing in a different district.

Subd. 16. **Leased Space.** The school may lease space from a board eligible to be a sponsor or other public or private nonprofit nonsectarian organization.

Subd. 17. **Initial Costs.** A sponsor may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. A sponsor may not authorize a school before the state board of education has approved the authorization.

Subd. 18. **Disseminate Information.** The department of education must disseminate information to the public, directly and through sponsors, on how to form and operate an outcome-based school and how to utilize the offerings of an outcome-based school.

Subd. 19. **Leave To Teach In A School.** If a teacher employed by a school district makes a written request for an extended leave of absence to teach at an outcome-based school, the school district must grant the leave. The school district must grant a leave for any number of years requested by the teacher, and must extend the leave at the teacher's request. The school district may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. Except as otherwise provided in this subdivision and except for section 125.60, subdivision 6a, the leave is governed by section 125.60, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the teachers' retirement association account by paying both the employer and employee contributions based upon the annual salary of the teacher for the last full pay period before the leave began. The retirement association may impose reasonable requirements to efficiently administer this subdivision.

Subd. 20. **Collective Bargaining.** Employees of the board of directors of the school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of the school is a public employer, for the purposes of chapter 179A, upon formation of one or more bargaining units at the school. Bargaining units at the school are separate from any other units.

Subd. 21. **Causes For Nonrenewal Or Termination.** (a) The duration of the contract with a sponsor shall be for the term contained in the contract according to subdivision 5. The sponsor, subject to state board of education approval, may or may not renew a contract at the end of the term for any ground listed in paragraph.

(b) A sponsor or the state board may unilaterally terminate a contract during the term of the contract, shall notify the board of directors of the school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the school's board of directors may request in writing an informal hearing before the sponsor or the state board within 14 days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 14 day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor or the state board shall give reasonable notice to the school's board of directors of the hearing date. The sponsor or the state board shall conduct an informal hearing before taking final action. The sponsor shall take final action to renew or not renew a contract by the last day of classes in the school year.

A contract may be terminated or not renewed upon any of the following grounds:

(1) failure to meet the requirements for pupil performance contained in the contract;

(2) failure to meet generally accepted standards of fiscal management;

(3) for violations of law; or

(4) other good cause shown.

If a contract is terminated or not renewed, the school shall be dissolved according to the applicable provisions of chapter 308A or 317A.

Subd. 22. **Pupil Enrollment.** If a contract is not renewed or is terminated according to subdivision 21, a pupil who attended the school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to section 120.062 at any time. Applications and notices required by section 120.062 shall be processed and provided in a prompt manner. The application and notice deadlines in section 120.062 do not apply under these circumstances.

Subd. 23. **General Authority.** The board of directors of an outcome-based school may sue and be sued. The board may not levy taxes or issue bonds.

Subd. 24. **Immunity.** The state board of education, members of the state board, a sponsor, members of the board of a sponsor in their official capacity, and employees of a sponsor are immune from civil or criminal liability with respect to all activities related to an outcome-based school they approve or sponsor. The board of directors shall obtain at least the amount of and types of insurance required by the contract, according to subdivision 5.

Sec. 43 [124.248] REVENUE FOR AN OUTCOME-BASED SCHOOL

Subdivision 1. **General Education Revenue.** General education revenue shall be paid to an outcome-based school as though it were a school district. The general education revenue for each pupil unit is the state average general education revenue per pupil unit, calculated without compensatory revenue, plus compensatory revenue as though the school were a school district.

Subd. 2. **Capital Expenditure Equipment Revenue.** Capital expenditure equipment aid shall be paid to an outcome-based school according to section 124.245, subdivision 6, as though it were a school district. Capital expenditure equipment aid shall equal capital expenditure equipment revenue. Notwithstanding section 124.244, subdivision 4, an outcome-based school may use the revenue for any purpose related to the school.

Subd. 3. **Special Education Aid.** Special education aid shall be paid to an outcome-based school according to section 124.32 as though it were a school district. The school may charge tuition to the district of residence as provided in section 120.17, subdivision 4. The district of residence shall levy as provided in section 275.125, subdivision 8c, as though it were participating in a cooperative.

Subd. 4. **Other Aid, Grants, Revenue.** An outcome-based school is eligible to receive other aids, grants, and revenue according to chapters 120 to 129, as though it were a school district. However, it may not receive aid, a grant, or revenue if a levy is required to obtain the money, except as otherwise provided in this section. Federal aid received by the state must be paid to the school, if it qualifies for the aid as though it were a school district.

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APPENDIX C

California's Charter School Legislation (1992)

CALIFORNIA
Senate Bill No. 1448

CHAPTER 781

An act to add Part 26.8 (commencing with Section 47600) to the Education Code, relating to charter schools.

[Approved by Governor September 20, 1992. Filed with Secretary of State September 21, 1992.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1448, Hart. Charter schools.

Under existing law, the public elementary and secondary schools are operated under the governance of school districts and county offices of education.

This bill would establish a procedure for the establishment of not more than 100 "charter schools," which would receive certain public funding but would not be subject to the laws generally governing school districts. The bill would prohibit the conversion of a private school to a charter school under this authority.

The bill would authorize a school district governing board or, as specified, a county board of education, in response to a petition signed by a specified percentage of credentialed teachers, to grant a revocable charter authorizing operation of a charter school for up to 5 years, subject to renewal for additional 5-year periods. The bill would allow a school district to convert all of its schools to charter schools only if certain conditions are met and the petition receives joint approval by the State Board of Education and the Superintendent of Public Instruction.

The bill would require a charter school to be nonsectarian, and to comply with the conditions of its charter petition, including the attainment of identified educational objectives, health and safety standards, and racial and ethnic balance. The bill would prohibit school districts having one or more charter schools from requiring any pupil to attend, or any employee to be employed at, a charter school. Charter schools would be prohibited from discriminating on the basis of ethnicity, national origin, gender, or disability, and from determining admission on the basis of the residence of the pupil or his or her parent or guardian.

The bill would authorize a charter school to participate in the State Teacher's Retirement System, as specified.

The bill would specify, for identified purposes of the California Constitution, that a charter school is under the authority of the public schools, and that it constitutes a "school district" for purposes of the state school funding guarantee for school districts and community college districts.

The bill would require the State Department of Education to review the charter school approach and, not later than January 1,

1999, to report to the Legislature with recommendations regarding that approach.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would impose a state-mandated local program by requiring school district governing boards to review and respond to petitions for the granting of charters within a specified time period.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

The people of the State of California do enact as follows:

SECTION 1. Part 26.8 (commencing with Section 47600) is added to the Education Code, to read:

PART 26.8. CHARTER SCHOOLS

CHAPTER 1. GENERAL PROVISIONS

47600. This part shall be known, and may be cited, as the "Charter Schools Act of 1992."

47601. It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

(a) Improve pupil learning.

(b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.

(c) Encourage the use of different and innovative teaching methods.

(d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a

method to change from rule-based to performance-based accountability systems.

47602. (a) The total number of charter schools operating in this state in any school year shall not exceed 100, with not more than 10 charter schools in any single school district. For the purposes of implementing this section, the State Board of Education shall assign a number to each charter notice it receives pursuant to subdivision (g) of Section 47605, based on the chronological order in which the notice is received.

(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school.

47603. This part shall not be construed to prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

Chapter 2. Establishment of Charter Schools

47605. (a) A petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. After the petition has been signed by not less than 10 percent of the teachers currently employed by the school district, or by not less than 50 percent of the teachers currently employed at one school of the district, it may be submitted to the governing board of the school district for review.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the board shall consider the level of employee and parental support for the petition. Following review of the petition and the public hearing, the governing board shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. A school district governing board may grant a charter for the operation of a school under this part if it determines that the petition contains the number of signatures required by subdivision (a), a statement of each of the conditions described in subdivision (d), and descriptions of all of the following:

(1) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an 'educated person' in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(2) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

(3) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(5) The qualifications to be met by individuals to be employed by the school.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(7) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(8) Admission requirements, if applicable.

(9) The manner in which an annual audit of the financial and programmatic operations of the school is to be conducted.

(10) The procedures by which pupils can be suspended or expelled.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(13) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(c) Charter schools shall meet the statewide performance standards and conduct the pupil assessments required pursuant to Section 60602.5.

(d) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.

(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.

(g) The governing board may require that the petitioner or

petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects upon the school and upon the school district.

(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the State Board of Education.

(j) (1) If the governing board of the school district denies a charter, the county superintendent of schools, at the request of the petitioner or petitioners, shall select and convene a review panel to review the action of the governing board. The review panel shall consist of three governing board members from other school districts in the county and three teachers from other school districts in the county unless only one school district is located in the county, in which case the panel members shall be selected from school districts in adjoining counties.

(2) If the review panel determines that the governing board failed to appropriately consider the charter request, or acted in an arbitrary manner in denying the request, the review panel shall request the governing board to reconsider the charter request. In the case of a tie vote of the panel, the county superintendent of schools shall vote to break the tie.

(3) If, upon reconsideration, the governing board denies a charter, the county board of education, at the request of the petitioner or petitioners, shall hold a public hearing in the manner described in subdivision (b) and, accordingly, may grant a charter. A charter school for which a charter is granted by a county board of education pursuant to this paragraph shall qualify fully as a charter school for all funding and other purposes of this part.

47606. (a) A school district may convert all of its schools to charter schools under this part only if it meets all of the following conditions:

(1) Fifty percent of the teachers within the school district sign the charter petition.

(2) The charter petition contains all of the requirements set forth in subdivisions (b), (c), (d), (e), and (f) of Section 47605 and a provision that specifies alternative public school attendance arrangements for pupils residing within the school district who

choose not to attend charter schools.

(b) Notwithstanding subdivision (b) of Section 47605, the districtwide charter petition shall be approved only by joint action of the Superintendent of Public Instruction and the State Board of Education.

47607. (a) A charter may be granted pursuant to Sections 47605 and 47606 for a period not to exceed five years. A charter granted by a school district governing board or county board of education may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period not to exceed five years. A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter.

(b) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter petition.

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter petition.

(3) Failed to meet generally accepted accounting standards of fiscal management.

(4) Violated any provision of law.

CHAPTER 3. CHARTER SCHOOL OPERATION AND FUNDING

47610. A charter school shall comply with all of the provisions set forth in its charter petition, but is otherwise exempt from the laws governing school districts except as specified in Section 47611.

47611. If a charter school chooses to participate in the State Teacher's Retirement System, all employees of the charter school who qualify for membership in the system shall be covered under the system, and all provisions of Part 13 (commencing with Section 22000) shall apply in the same manner as if the charter school were a public school in the school district that granted the charter.

47612. (a) The Superintendent of Public Instruction shall make all of the following apportionments to each charter school for each fiscal year:

(1) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24, an amount for each unit of regular average daily attendance in the charter school that is equal to the current fiscal year base revenue limit for the school district to which the charter petition was submitted.

(2) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.

(3) Funds for the programs described in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.

(b) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of subdivisions (a) and (b).

(c) A charter school shall be deemed to be a "school district" for purposes of Section 41302.5 and Sections 8 and 8.5 of Article XVI of the California Constitution.

CHAPTER 4. NOTICE

47615. The State Board of Education shall distribute information announcing the availability of the charter school process described in this part to each school district, county office of education, and public postsecondary educational institution and, through press releases, to each major newspaper in the state.

47616. The State Department of Education shall review the educational effectiveness of the charter school approach authorized under this part and, not later than January 1, 1999, shall report to the Legislature accordingly with recommendations to modify, expand, or terminate that approach.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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